

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

GLENN EDWARD SMITH,

Plaintiff

VS.

BILL MASSEE, *et al.*,

Defendants

NO. 5:06-CV-21 (CAR)

PROCEEDINGS UNDER 42 U.S.C. §1983
BEFORE THE U. S. MAGISTRATE JUDGE

RECOMMENDATION

Plaintiff GLENN EDWARD SMITH has sued TRINITY SERVICES GROUP (hereafter "TRINITY")¹ in the above-styled §1983 action. Although TRINITY has filed a motion asking for its dismissal from the action based on other theories (Tab #12), since TRINITY is not a "person" who may be sued under § 1983 pursuant to *Will v. Michigan Dep't of State Police*, 491 U.S. 58 (1989), no action can be maintained against that entity. Accordingly, IT IS RECOMMENDED that TRINITY be DISMISSED as a party.²

Pursuant to 28 U.S.C. § 636(b)(1), the plaintiff may serve and file written objections to this **RECOMMENDATION** with the district judges of this court by filing the same in writing with the Clerk **WITHIN TEN (10) DAYS** after being served with a copy thereof

SO RECOMMENDED this 16th day of FEBRUARY, 2007.



A handwritten signature in blue ink, reading "Claude W. Hicks, Jr.", is written over a horizontal line.

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE

¹The plaintiff's complaint is captioned as being against "Trinity Food Service," but that defendant's motion to dismiss identifies its actual name to be Compass Group, USA, Inc. d/b/a Trinity Services Group, Inc.

²Since this Recommendation recommends dismissal on grounds other than those cited in TRINITY's motion to dismiss, IT IS RECOMMENDED that TRINITY's motion to dismiss be DENIED as MOOT.